

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kevin O'Connor (Int)	Team: Team # 2	CCRB Case #: 201407831	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 10/21/2013 8:08 PM, Tuesday, 08/12/2014	Location of Incident: § 87(2)(b)	Precinct: 114	18 Mo. SOL 4/21/2015	EO SOL 4/21/2015	
Date/Time CV Reported Thu, 08/07/2014 11:46 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 08/07/2014 11:46 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Juan Torres	13539	946335	PSA 9
2. POM Derrick Barnes	02119	934457	PSA 9

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Roland Matthews	06707	937048	PSA 9
2. POM Anthony Coppola	20215	945166	PSA 9

Officer(s)	Allegation	Investigator Recommendation
A.POM Juan Torres	Force: On October 21, 2013, PO Juan Torres struck § 87(2)(b) with an asp in front of § 87(2)(b) in Queens.	§ 87(2)(b)
B.POM Juan Torres	Force: On October 21, 2013, PO Juan Torres tightly handcuffed § 87(2)(b) in front of § 87(2)(b) in Queens.	§ 87(2)(b)
C.POM Juan Torres	Discourtesy: On October 21, 2013 and August 12, 2014, PO Juan Torres spoke discourteously to § 87(2)(b) and § 87(2)(b) in front of § 87(2)(b) and at the PSA9 Stationhou	§ 87(2)(b)
D.POM Juan Torres	Force: On August 12, 2014, PO Juan Torres pointed his gun at § 87(2)(b) and § 87(2)(b) in front of § 87(2)(b).	§ 87(2)(b)
E.POM Juan Torres	Abuse: On August 12, 2014, PO Juan Torres threatened § 87(2)(b) and § 87(2)(b) with the use of force in front of § 87(2)(b) in Queens.	§ 87(2)(b)
F.POM Derrick Barnes	Force: On August 12, 2014, PO Derrick Barnes used physical force against § 87(2)(b) in front of § 87(2)(b) in Queens.	§ 87(2)(b)

Case Summary

This complaint involves two separate incident dates with the § 87(2)(b) brothers and their friends as well as the same subject officer(s).

On October 21, 2013, at approximately 8:08 p.m., § 87(2)(b) was playing cards with some of his friends, who were smoking marijuana, inside the courtyard of § 87(2)(b) in Queens. PO Juan Torres and PO Derrick Barnes subsequently entered the courtyard and § 87(2)(b) ran. While chasing § 87(2)(b) PO Torres allegedly removed his asp and struck § 87(2)(b) once on the right leg (**Allegation A**). § 87(2)(b) mother, arrived at the scene after her son's arrest and began to scream at PO Torres. PO Torres became angry and allegedly tightened § 87(2)(b) handcuffs (**Allegation B**). PO Torres then allegedly told § 87(2)(b) "Your mom is a crazy ass bitch. She's psycho. She needs help" (**Allegation C**). § 87(2)(b) was arrested as a result of this incident.

On August 12, 2014, at approximately 8:05 p.m., § 87(2)(b) met up with his brother, § 87(2)(b) his cousin, § 87(2)(b) and their friend, § 87(2)(b) who were all smoking marijuana, inside the courtyard of § 87(2)(b) in Queens. PO Torres, PO Barnes and several additional officers entered the courtyard and the men ran. Upon running in PO Torres' direction, PO Torres removed his gun from its holster and pointed it at the men (**Allegation D**), while threatening to shoot them if they did not comply (**Allegation E**). § 87(2)(b) ran from PO Torres and was eventually taken to the ground with an alleged clothesline maneuver by PO Barnes (**Allegation F**). After being transported to the stationhouse, PO Torres allegedly told the four men, "I should have sent some shots at you and had your asses jumping over gates," and told § 87(2)(b) that § 87(2)(b) was a "crazy ass bitch" (**Subsumed within Allegation C**). § 87(2)(b) and § 87(2)(b) were all arrested as a result of this incident.

Mediation, Civil and Criminal Histories

This case was ineligible for mediation. Neither § 87(2)(b) nor § 87(2)(b) have filed any Notice of Claim in regard to either incident as of February 27, 2015, nearly one year after the filing deadline for the first incident and three months after the filing deadline for the second incident. [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

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Civilian and Officer CCRB Histories

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- § 87(2)(b)
- This is the first CCRB complaint filed by § 87(2)(b) and § 87(2)(b) (encl. 3C-E).
- PO Torres has been a member of the service for seven years and there are five CCRB complaints against him, containing nine allegations of physical force, threat of force, gun pointed, use of a nightstick as a club, handcuffs tightened, discourtesy and an entry. None have been substantiated (encl. 2A) and § 87(2)(g)
- PO Barnes has been a member of the service for 10 years and there are three CCRB complaints against him, containing four allegations of refusal to provide name and shield number, discourtesy and physical force. In case number 201400875, an allegation of discourtesy was substantiated against PO Barnes. The CCRB Board recommended instructions and the NYPD's disposition was instructions. § 87(2)(g)

Investigative Findings and Recommendations

Allegations Not Pleaded

- As § 87(2)(b) admitted that officers had told her to step away as they were placing § 87(2)(b) in the patrol vehicle during the October 21, 2013 incident and she continued to approach them, § 87(2)(b) allegation of force regarding PO Torres pushing her away from the scene is not being pleaded.

Allegation A-Force: On October 21, 2013, PO Juan Torres struck § 87(2)(b) with an asp in front of § 87(2)(b) in Queens.

It is undisputed that § 87(2)(b) fled from PO Torres. It is also undisputed that PO Torres struck § 87(2)(b) with his asp. § 87(2)(b) stated that as he was running from PO Torres, PO Torres removed his asp and struck him once on the right leg, causing him to fall to the ground (encl. 7A-G). PO Torres stated that after pursuing § 87(2)(b) for approximately 200 feet, § 87(2)(b) turned around and entered into a fighting stance with his hands raised. PO Torres told § 87(2)(b) to stop running and not to move, but § 87(2)(b) did not comply. PO Torres then struck § 87(2)(b) twice in rapid succession on the "leg section" of his body (encl. 14A-E).

Officers are permitted to use the minimum amount of force necessary to overcome resistance and take into custody a violent or resistant individual. NYPD Patrol Guide Procedure 203-11 (encl. 1A-B).

During this incident, § 87(2)(b) resisted arrest by fleeing from PO Torres and refusing multiple commands to stop. According to § 87(2)(b) PO Torres used his asp as a method to prevent him from continuing to run. According to PO Torres, he used his asp in an attempt to ward off a potential attack by § 87(2)(b) who he stated had entered a fighting stance and ignored several commands to stop moving. In either circumstance, PO Torres' use of his asp was a reasonable attempt to gain § 87(2)(b) compliance and prevent further resistance.

§ 87(2)(g)

§ 87(2)(g)

Allegation B- Force: On October 21, 2013, PO Juan Torres tightly handcuffed § 87(2)(b) in front of § 87(2)(b) in Queens.

It is undisputed that PO Torres placed § 87(2)(b) in handcuffs. § 87(2)(b) alleged that after his mother, § 87(2)(b) arrived at the scene, she began yelling and screaming at officers. This made PO Torres angry and he allegedly tightened § 87(2)(b) handcuffs. § 87(2)(b) did not mention observing § 87(2)(b) handcuffs being tightened when she provided a statement to the CCRB (encl. 8A-D).

PO Torres denied tightening § 87(2)(b) handcuffs. PO Barnes did not observe PO Torres tighten § 87(2)(b) handcuffs and PO Roland Matthews, who was present during the incident and was assigned § 87(2)(b) arrest, did not have any recollection of this incident.

§ 87(2)(g)
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Allegation C- Discourtesy: On October 21, 2013, and August 12, 2014, PO Juan Torres spoke discourteously to § 87(2)(b) and § 87(2)(b) in front of § 87(2)(b) and at the PSA 9 Stationhouse in Queens.

It is undisputed that PO Torres placed § 87(2)(b) in a patrol vehicle for transportation to the PSA 9 Stationhouse during the incident in October 2013 and was present at the PSA 9 Stationhouse when § 87(2)(b) and § 87(2)(b) were transported there after their arrests during the August 2014 incident.

§ 87(2)(b) alleged that after § 87(2)(b) arrived, she began to yell and scream at officers. Prior to placing § 87(2)(b) in a patrol vehicle so he could be transported to the PSA 9 Stationhouse, PO Torres allegedly told § 87(2)(b) “Your mom is a crazy ass bitch. She’s psycho. She needs help.” § 87(2)(b) did not mention hearing this statement while she was present at the scene.

§ 87(2)(b) alleged that after getting to the ground once PO Torres drew his weapon, PO Torres told him, § 87(2)(b) and § 87(2)(b) to “Shut the fuck up.” § 87(2)(b) did not reiterate hearing this statement. § 87(2)(b) and § 87(2)(b) could not be reached to provide a statement (encl. 27A-J). After the four men were arrested and transported to the PSA 9 Stationhouse, § 87(2)(b) alleged that PO Torres told them, “I should have sent some shots at you and had your asses jumping over gates.” § 87(2)(b) did not state this during his interview. PO Torres then took § 87(2)(b) aside and allegedly told him that § 87(2)(b) was a “crazy ass bitch.”

PO Torres denied making any of the aforementioned statements and neither PO Barnes nor PO Anthony Coppola, who was present during the August 2014 incident, heard him use any profanity. PO Matthews did not have any recollection of the October 2013 incident.

§ 87(2)(g)
§ 87(2)(g)

Allegation D- Force: On August 12, 2014, PO Juan Torres pointed his gun at § 87(2)(b) and § 87(2)(b) in front of § 87(2)(b) in Queens.

It is undisputed that PO Torres pointed his gun at § 87(2)(b) and § 87(2)(b) after they fled from officers in the courtyard of § 87(2)(b).

§ 87(2)(b) alleged that after running through the courtyard of § 87(2)(b) and entering a small park area with § 87(2)(b) and § 87(2)(b) he turned around and saw PO Torres pointing his gun at them from approximately eight or nine feet

away. § 87(2)(b) observed PO Torres draw his gun, but did not observe him point it at him or any of the men he had been running with. Neither § 87(2)(b) nor § 87(2)(b) could be reached to provide a statement.

PO Torres stated that he observed officers, including PO Coppola, chasing six men through the courtyard and telling them to stop. The men ignored these commands and eventually ran towards PO Torres, who was standing alone after having entered through one of the courtyard entrances. Once they got within 10 feet of him, PO Torres pointed his gun at the men as he was in fear for his safety because the men had “bum rushed” him and he could not see their hands.

An officer is permitted to draw and point their weapon at another person when that officer reasonably fears for their safety or the safety of another. NYPD v. Gliner, OATH Index #955/00 (encl. 1C-V).

§ 87(2)(g)

Allegation E-Abuse of Authority: On August 12, 2014, PO Juan Torres threatened § 87(2)(b) and § 87(2)(b) with the use of force in front of 41-06 Vernon Boulevard in Queens.

§ 87(2)(b) alleged that after pointing his gun, PO Torres told him, § 87(2)(b) and § 87(2)(b) “Get down before I shoot” or “Get on the ground before I shoot.” § 87(2)(b) stated that he only heard PO Torres direct profanity at the men when he drew his gun. Neither § 87(2)(b) nor § 87(2)(b) could be reached to provide a statement to the CCRB.

PO Torres denied making any of the aforementioned statements and denied threatening to use his weapon at any point during the incident. PO Torres stated that after drawing and pointing his weapon, he told the men, “Police. Don’t move” and they subsequently got to the ground. PO Barnes heard PO Torres tell the men, “Get on the ground,” but did not hear him make any of the aforementioned statements or threaten to use his weapon. PO Coppola did not hear PO Torres make any of these statements.

§ 87(2)(g)

Allegation F- Force: On August 12, 2014, PO Derrick Barnes used physical force against § 87(2)(b) in front of § 87(2)(b) in Queens.

It is undisputed that § 87(2)(b) fled from the officers. It is also undisputed that § 87(2)(b) was placed in handcuffs by PO Barnes shortly after.

§ 87(2)(b) alleged that after running from PO Torres, PO Barnes used his forearm to strike § 87(2)(b) in the right arm so that § 87(2)(b) fell onto a bench. PO Barnes then got on top of § 87(2)(b) and placed him in handcuffs. § 87(2)(b) stated that after § 87(2)(b) ran, PO Barnes used his left arm to take § 87(2)(b) down, employing the use of a “clothesline” maneuver. PO Barnes’ arm made contact with § 87(2)(b) chest and neck area, which caused him to fall to the ground. PO Barnes then picked § 87(2)(b) up and threw him onto a bench.

PO Barnes stated that while § 87(2)(b) ran directly into him, he grabbed § 87(2)(b) upper body and both men fell onto a bench due to the momentum generated by § 87(2)(b) running into PO Barnes. PO Barnes then grabbed § 87(2)(b) arms and placed him in

handcuffs. PO Barnes denied using his forearm to strike § 87(2)(b) in the right arm, chest or neck area and did not take him to the ground using a “clothesline” maneuver. PO Barnes also stated that he did not throw § 87(2)(b) onto the bench.

PO Torres observed PO Barnes grab § 87(2)(b) and bring him to the ground, but could not see which part of § 87(2)(b) body PO Barnes grabbed. PO Torres did not observe PO Barnes use the aforementioned “clothesline” maneuver against § 87(2)(b) and did not observe PO Barnes throw § 87(2)(b) onto a bench. PO Coppola did not observe PO Barnes make an arrest during the incident.

Officers are permitted to use the minimum amount of force necessary to overcome resistance and take into custody a violent or resistant individual. NYPD Patrol Guide Procedure 203-11 (encl. 1A-B).

During this incident, § 87(2)(b) ignored multiple commands to stop as he continued to run from officers in an attempt to leave the scene. PO Barnes was the only officer remaining by the exit in which he had entered, where § 87(2)(b) intended to leave through. As such, it is reasonable for PO Barnes to make an attempt to stall § 87(2)(b) forward progress and prevent his escape by employing a physical tactic or maneuver to effect his arrest. By § 87(2)(b) own account, the specific maneuver used by PO Barnes was far less egregious than the one § 87(2)(b) testified that he observed.

§ 87(2)(g)

Team: _____

Investigator: _____
Signature _____ Print _____ Date _____

Supervisor: _____
Title/Signature _____ Print _____ Date _____

Reviewer: _____
Title/Signature _____ Print _____ Date _____

Reviewer: _____
Title/Signature _____ Print _____ Date _____